

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

**TUITIONFUND, LLC,** )  
                                )  
                                )  
**Plaintiff,**              )  
                                )  
                                )  
**v.**                         )      **No. 3:11-00069**  
                               )  
                               **Judge Sharp**  
**SUNTRUST BANKS, INC. *et al.*,** )  
                                )  
                                )  
**Defendants.**             )

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**TUITIONFUND, LLC,**        )  
                                )  
**Plaintiff,**                )  
                                )  
**v.**                         )      **No. 3:11-00852**  
                               )  
                               **Judge Sharp**  
**FIRST HORIZON NATIONAL**    )  
**CORPORATION, *et al.*,**    )  
                                )  
**Defendants.**              )

**ORDER**

In accordance with the discussions at the hearing on April 20, 2012, the Court hereby enters the following rulings in the above-captioned cases:

**A. Case No. 3:11-00069**

- (1) The Motions to Dismiss Pursuant to Fed R. Civ. P. 12(b)(6) (Docket Nos. 106 & 112) for failure to state a claim are hereby DENIED;
- (2) The Motions to Sever Pursuant to Fed. R. Civ. P. 21 (Docket Nos. 108 & 168) are hereby DENIED WITHOUT PREJUDICE. Defendants may re-file motion(s) to sever after this Court has issued its claim construction ruling, if the circumstances at that time so warrant;
- (3) The Motion to Transfer Venue (Docket No. 110) is hereby DENIED WITHOUT

PREJUDICE;

(4) The Motion for Attorney's Fees (Docket No. 138) is hereby DENIED; and

(5) With these rulings, the Motions to Stay Pending Resolution of the Pre-Answers Motions (Docket Nos. 163 & 166) are hereby DENIED AS MOOT.

**B. Case No. 3:11-00852**

(1) The Motions to Dismiss for Lack of Jurisdiction (Docket Nos. 63 & 70) are hereby GRANTED; PROVIDED, HOWEVER, that said grants are without prejudice to Plaintiff amending the Complaint to add Fifth Third Bancorp, BB&T Corporation, and/or Comerica Incorporated as Defendants should discovery show that this Court has personal jurisdiction over one or more of those entities. Any of these three entities added as a Defendant may file another Motion to Dismiss for Lack of Jurisdiction, if the same can be done in good faith;

(2) The Motions to Dismiss Pursuant to Fed R. Civ. P. 12(b)(6) (Docket Nos. 99 & 102) for failure to state a claim are hereby DENIED; and

(3) The Motion to Sever Pursuant to Fed. R. Civ. P. 21 (Docket No. 116) is hereby DENIED WITHOUT PREJUDICE. Defendants may re-file motion(s) to sever after this Court has issued its claim construction ruling, if the circumstances at that time so warrant.

It is SO ORDERED.

  
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KEVIN H. SHARP  
UNITED STATES DISTRICT JUDGE